

COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE
WILMINGTON, DELAWARE 19801

ROBERT H. SURLES
JUDGE

December 10, 2014

Ms. Mary Santora
632 McLane Street
Wilmington, DE 19805

Mr. Brian Herald
900 E. Hazeldell Ave.
New Castle, DE 19720

RE: In the Matter of William A. Herald
Civil Action No.: CPU4-14-002953
Petition for Name Change
New Castle County Court of Common Pleas

Date Submitted: 11/10/2014

Date Decided: 12/10/2014

ORDER AND DECISION ON PETITION FOR NAME CHANGE FOR MINOR CHILD

Dear Ms. Santora and Mr. Herald:

A hearing for the above-referenced matter was held on November 10, 2014. This matter involves a request for a name change pursuant to Chapter 59 of the Delaware Code for a minor child, William Arnold Herald ("William"). The petition requests that his name be changed to William Herald Santora, and was filed by William's natural mother, Mary Santora ("Petitioner"), who is pursuing the name change on his behalf. The petition is contested by William's natural father, Brian Herald ("Respondent"). At the conclusion of the hearing, the Court heard closing argument by Petitioner¹ and reserved decision. This is the Court's decision after the hearing.

¹ Respondent declined to make a closing argument.

Through the evidence introduced at the hearing, it was established that Petitioner and Respondent are the natural parents of William, who was born in Newark, Delaware on November 27, 2013. Petitioner is the primary caretaker and custodial parent of William, and provides for all of his daily needs including daycare and healthcare expenses. The Respondent has given Petitioner and William some support by occasionally providing clothes, diapers and formula. Respondent visits William somewhere between four to six times a month but has not been allowed to take William to his home in part due to Petitioner's concern about Respondent's Labrador retriever's temperament.

Respondent has offered to pay Petitioner roughly \$30 a week in financial support, however no agreement has been reached, nor has a court order been entered for either party. Although no evidence was introduced regarding the actual cost of healthcare, daycare, food, clothing, and miscellaneous expenses, Respondent's offering of \$4.29 a day falls well short of Petitioner's estimates of her total support costs. Additionally, Respondent agreed with the Court that his financial offerings do not come close to what support Petitioner provides.

Ms. Santora filed the petition for name change desiring to change William's last name from Herald to Santora, and his middle name from Arnold to Herald. She believes it is in the best interest of her child to change his last name from the Respondent's to hers since she provides for all of William's needs and cares for him on a daily basis. Petitioner feels this should be reflected in the name he takes. Respondent contests this petition on the grounds that it is not in William's best interest and no benefit is realized by changing his name.

Petitioner satisfied the statutory requirements of *10 Del. C. §5901 et seq.*, and *Court of Common Pleas Civil Rule 81* for a change of name through her attestation and testimony at the hearing. She indicated that no creditors or any other persons would be defrauded or adversely affected by the name change; that no criminal proceedings or charges are pending against William; that he is not subject to the supervision of the Department of Corrections nor is he required to register with any law enforcement authority; and finally, that the petition was verified and duly noticed in *The News Journal* pursuant to Delaware statute once a week, for three weeks prior to filing.²

The legal standard for change of name petitions involving minors is whether the change of name is in the “best interest of the child.”³ This is a totality of the circumstances test in which this Court is to consider and weigh the following factors in making its determination:

- (1) A parent’s failure to financially support the child;
- (2) A parent’s failure to maintain contact with the child;
- (3) The length of time that a surname has been used for or by the child;
- (4) Misconduct by one of the child’s parents;
- (5) Whether the surname is different from the surname of the child’s custodial parent;
- (6) The child’s reasonable preference for a surname;
- (7) The effect of the change of the child’s surname on the preservation and development of the child’s relationship with each parent;

² 10 DEL. C. Chapter 59

³ *In re Gibbs*, 2008 WL 5160141, at 4 (Del. Com. Pl. July 9, 2008).

- (8) The degree of community respect associated with the child's present surname and proposed surname;
- (9) The difficulties, harassment, or embarrassment that the child may experience from bearing the present or proposed name;
- (10) The identification of the child as a part of the family unit.⁴

In considering the ten factors for determining whether the "best interest of the child" would be served by granting the proposed name change I find that it would be in the best interest of William to change his last name from Herald to Santora and his middle name from Arnold to Herald. William has been identified by his current surname for about one year, as such there has been little time for this surname to become a part of William's identity. Because of his tender age a name change at this point in his life would produce little to no disruption for William.

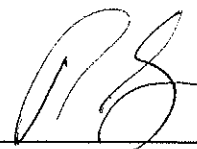
From the record, it has been established that Petitioner is the primary caretaker and custodial parent of William. Her daily efforts provide William access to health insurance, daycare, shelter and importantly, emotional support. It is Petitioner who bears the responsibility of filling out paperwork when William visits the doctor, is signed up for daycare or enters school. Although Respondent made some efforts to help support William, Respondent's ability to continue this support is unaffected by this name change. In contrast, the consistency and ease of Petitioner's and William's social interactions would be increased if they shared Petitioner's surname. This change could spare Petitioner and William the difficulty and embarrassment of having to explain why their surnames differ.

⁴ *Id.*

Finally, whereas Respondent sees William four to six times a month, Petitioner provides William support every day. It is in William's best interest that he identifies himself as part of his mother's family unit. Along the same vein, Petitioner has decided to change William's middle name to Respondent's last name, from Arnold to Herald. This will help ensure that William will identify with the Respondent in some way.

The Court finds that the Petitioner has proven by a preponderance of the evidence that the name change requested in the petition for William is in his best interest. The name change will ensure that William shares the same name as his custodial parent, is identified as part of the family unit, and is spared the potential difficulties and embarrassment of having to explain why his surname differs from that of his custodial parent. As such, the Court grants the above-referenced name change petition, changing William's surname from Herald to Santora, and his middle name from Arnold to Herald.

IT IS SO ORDERED THIS th 10 DAY OF DECEMBER, 2014.



JUDGE